

9 January 1987

ARTICLE APPEARED

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# Playing word games with the law



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LAST Aug. 27, President Reagan signed the Antiterrorism Act of 1986, which explicitly barred him from selling

arms to Iran. He could have vetoed the bill. But he signed it—knowing that he would ignore it.

This week, the State Department explained to Congress exactly how the President can ignore a law he is sworn to execute.

Legal adviser Abraham Sofaer acknowledged, in a letter to the House Foreign Relations Committee, that, yes, the 1979 arms embargo is still in effect, and, yes, the 1986 Antiterrorism Act specifically prohibits arms sales to Iran.

But Sofaer's opinion went on to say, "The foregoing is, of course, without prejudice to the authority of the executive branch to carry out transfers of defense articles and services under other legal authorities, such as pursuant to special intelligence findings."

Which means: "Forget the law. The President can do whatever he wants."

Last August, at the time he signed the Antiterrorism Act, Reagan was engaged in the clandestine sale of 2,000 antitank missiles to Iran. One delivery took place that month, another the following November. But the previous Jan. 17, 1986, Reagan had secretly signed the "intelligence finding" that, in advance, made a mockery of the law.

What is an intelligence finding? It is a formal statement by the President to authorize covert actions in the interests of national security. Congress, says the law, must be notified of any such finding in "timely fashion."

But Reagan's legal advisers have added two new wrinkles to it: First, they say that the President need not notify the Congress until he wants to. Second, according to the sworn testimony of former national security adviser Robert McFarlane, Attorney General Edwin Meese has ruled that the President need

not even sign the finding. He can authorize it orally.

Taken together, this means that the President's private words, as interpreted by his aides, can be used as authority for those aides to ignore the law. And they need not report any of this to Congress.

As far as Congress knows, the law on which it held committee hearings, and which both House and Senate approved, and which it then submitted to the President for signature—and which he then did duly and lawfully sign—is in force and is being executed by the chief executive. In fact, the law is meaningless. The President has secretly told his aides to ignore it.

Moreover, former CIA general counsel Stanley Sporkin says the President can even authorize violations of the law retroactively. According to The Washington Post, Sporkin testified to the Senate Intelligence Committee last month that the President had the right to approve illegal arms deliveries to Iran after they had occurred because he

can grant pardons.

That is, not only can the President authorize some one secretly to violate the law, but if an official violates the law on his own, the President, once he finds out about it, can give his approval afterward. This is an extraordinary view of what is meant by the rule of law. Law becomes whatever words drop from the President's lips in secret places. If an active, aggressive President like Lyndon Johnson or Richard Nixon had attempted such a usurpation of power, there would be hell to pay. But Reagan is old and ill and smiling through the pain of his surgery. He is not an evil man, mad for power.

**Y**ET LAWS MUST be enforced to have meaning. Instead of enforcement, we have bizarre legal opinions that confer upon an ailing and distracted President the authority to ignore the law. And said authority is to be wielded by aides acting in Reagan's name. This is what got us into the Iran mess in the first place. Have they learned nothing?